

Application No.: 10/726,968

Case No.: 59418US002

REMARKS

Claims 1 to 17 remain pending, but amendments are being made above to independent claims 1 and 15, and dependent claims 16 and 17. Continued prosecution and reconsideration of this application is respectfully requested in view of such amendments and the remarks that follow.

Claim 1 is being amended to recite that "the non-planar flexible multilayer reflector comprises a polymeric material that resists degradation when exposed to blue, violet, or ultraviolet light". Support for this amendment can be found throughout the application, e.g. at page 19 lines 4-8, page 22 lines 19 ff., and page 25 lines 4-13. A similar amendment is being made to method claim 15. No new matter has been added.

Claims 16 and 17 are being amended for improved readability, replacing "a" with "the" to make clear the antecedent basis of "non-planar flexible multilayer reflector" from claim 15. No new matter has been added.

Provisional Obviousness-Type Double Patenting Rejections

Various claims of the present application were provisionally rejected over various claims of the following copending and commonly assigned applications, under the judicially-created doctrine of obviousness-type double patenting:

U.S. Application 10/726,995 (Attorney Docket No. 59415US002);

U.S. Application 10/727,026 (Attorney Docket No. 59417US002); and

U.S. Application 10/727,072 (Attorney Docket No. 59416US002).

In response thereto, Applicants note that after consideration of the amendments above and the arguments that follow, these provisional ODP rejections will be the only rejections remaining in this application. As such, they should be withdrawn in view of the practice outlined in MPEP § 804 (I)(B). The applications listed above have not been granted any notice of allowance as of the date of this writing.

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**§ 103 Rejections**

The Office Action rejected claims 1,2,4-7,9, and 15-17 as obvious (35 USC § 103(a)) over U.S. Patent 6,155,699 (Miller et al.) in view of U.S. Patent 6,172,810 (Fleming et al.). According to the Office Action, it would have been obvious to substitute the flexible polymeric multilayer reflector of Fleming et al. for the reflector of Miller et al.

The Office Action also rejected claims 10-14 as obvious (35 USC § 103(a)) over Miller et al. in view of Fleming et al., and further in view of U.S. Patent 6,653,765 (Levinson et al.), alleging that Levinson et al. discloses a layer of phosphor material being a plurality of dots of phosphor material.

The Office Action also rejected claim 3 as obvious (35 USC § 103(a)) over Miller et al. in view of Fleming et al., and further in view of the printed publication "Giant Birefringent Optics in Multilayer Polymer Mirrors" (Weber et al.), stating that Weber et al. discloses the use of birefringent layers within a multilayer polymer mirror.

Finally, the Office Action rejected claim 8 as obvious (35 USC § 103(a)) over Miller et al. in view of Fleming et al., and further in view of U.S. Patent 5,540,978 (Schrenk). According to the Office Action, "Schrenk discloses the use of a flexible multilayer reflector comprising polymeric material that resists degradation when exposed to U.V. light within a light device", and it "would have been obvious ... to substitute the multilayer reflector of Schrenk in the device taught by Miller and Fleming because it maximizes the life of the reflector thereby maximizing the life of the device."

In reply, Applicants focus for purposes of this response on the combination of references involving Miller et al., Fleming et al., and Schrenk, in the rejection of claim 8. Applicants do not dispute that Miller et al. teaches a particular phosphor-conversion LED structure, nor, for example, that Schrenk teaches a particular all-polymeric ultraviolet light reflecting film, where the polymers are resistant to degradation by ultraviolet light.

Nevertheless, Applicants respectfully submit that the rejection of claim 8 cannot be sustained because the proposed combination lacks the required "reasonable expectation of success", instead rendering the prior art unsatisfactory for its intended purpose. See MPEP 2143.01(V). This is because the rejection impermissibly tries to pick and choose between

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isolated disclosures of the various references using hindsight reconstruction and the present claims as a blueprint, rather than considering each reference in its entirety, including disclosures that teach away from the proposed combination. See MPEP 2141.02(VI). In particular, the "multilayer reflector of Schrenk" is clearly described in that reference as an all-polymeric ultraviolet reflecting film "*which is substantially transparent to visible and near infrared wavelengths*" while reflecting a substantial portion of solar ultraviolet wavelengths" (emphasis added). Col. 1 lines 10-14 of Schrenk; see also col. 2 line 62 to col. 3 line 3; col. 5 lines 28-35. Such a reflector, if substituted in the device of Miller et al. as proposed in the Office Action, would render the Miller et al. device inoperable, since the "secondary light" of Miller et al., occurring at a longer wavelength than the (blue) primary light, would not be reflected by the "substantially transparent" ultraviolet reflecting film of Schrenk. The Schrenk reflecting film would thus fail to "transmit the emitted primary light, while preventing the converted secondary light from propagating back to the light source" as taught for example at col. 2 line 65 to col. 3 line 1 of Miller et al.

In view of the foregoing, claim 8 is submitted to be allowable. Claim 1 has also been amended to recite that the non-planar flexible multilayer reflector comprises a polymeric material that resists degradation when exposed to blue, violet, or ultraviolet light. This recitation is broader than dependent claim 8, yet is respectfully submitted to render claim 1 allowable over the cited references for substantially the same reasons. Independent method claim 15 has been amended to include a similar limitation to that of claim 1 and is submitted to be allowable for at least the same reasons.

The rejections of the claims having been overcome or rendered moot by the amendment of claims 1 and 15, Applicants respectfully submit that all pending claims 1-17 are in condition for allowance.

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CONCLUSION

In view of the foregoing, it is submitted that the application is in condition for allowance, the early indication of which is earnestly solicited.

Other than the fee for the 1-month extension under Rule 136(a), no other fee is believed to be due by submission of this paper. If this belief is incorrect, please charge any additional required fee to Deposit Account No. 13-3723.

Respectfully submitted,

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